

## ARTICLE 84-02

### ALCOHOL BEVERAGE TAXATION

Chapter  
84-02-01          General Considerations

#### CHAPTER 84-02-01 GENERAL CONSIDERATIONS

Section	
84-02-01-01	Penalty
84-02-01-02	Forms
84-02-01-03	Bonding [Repealed]
84-02-01-04	Source of Supply
84-02-01-05	Liquor Manifesting
84-02-01-06	Beer Suppliers Reporting Requirements
84-02-01-07	Beer Wholesalers Reporting Requirements
84-02-01-08	Beer Tax Credit
84-02-01-09	Liquor Tax Information Required
84-02-01-10	Cash for Beer
84-02-01-11	Commercial Credit for Liquor

**84-02-01-01. Penalty.** A wholesaler's license may be suspended or revoked by the state treasurer for violation of any of the provisions of this chapter after a hearing as provided by North Dakota Century Code section 5-03-06.

**History:** Amended effective February 1, 1990.

**General Authority:** NDCC 5-03-05

**Law Implemented:** NDCC 5-03-01, 5-03-05, 5-03-06

**84-02-01-02. Forms.** The state treasurer shall prescribe the necessary forms and procedures to ensure proper and efficient collection of beer and liquor taxes.

**General Authority:** NDCC 5-03-05

**Law Implemented:** NDCC 5-03-04, 5-03-05

**84-02-01-03. Bonding.** Determined repealed by the office of the Legislative Council under North Dakota Century Code section 28-32-03 because the authority for adoption of the rule was repealed by S.L. 1995, ch. 74, § 5.

**84-02-01-04. Source of supply.** No wholesaler shall purchase any alcoholic beverage for resale from any source other than any of the following:

1. The manufacturer, rectifier, distiller, brewer, or winery producing the alcoholic beverage.

2. The owner of the trademark under which the alcoholic beverage is packaged for sale to retailers.
3. The United States importer or United States agent for a foreign manufacturer or trademark owner of the alcoholic beverage.
4. The expressly designated agent for North Dakota, or the primary American source of supply, of any of the above.
5. The North Dakota wholesaler of alcoholic beverages.

**General Authority:** NDCC 5-03-05

**Law Implemented:** NDCC 5-03-05

**84-02-01-05. Liquor manifesting.**

1. All persons sending or bringing liquor into North Dakota shall file a North Dakota schedule A report of all shipments and returns for each calendar month with the state treasurer. The report must be postmarked on or before the fifteenth day of the following month.
2. All liquor arriving in North Dakota shall be shipped only to licensed wholesalers pursuant to a manifest of liquor shipment.
3. These manifests shall be prepared in triplicate and sent to the state treasurer, alcohol beverage division, prior to shipment. After registration the treasurer shall mail two copies to the wholesaler concerned. The wholesaler at the time of delivery shall indicate the date of receipt on the original copy of the manifest and promptly send it to the state treasurer, alcohol beverage division. The second copy may be retained by the wholesaler.
4. Where breakage occurs in any shipment, the information on the reverse side of the manifest of liquor shipment will be completed and the office of the state treasurer will be furnished a copy of a report of claims in addition to the original manifest.
5. A bill of lading and manifest shall be sent to the state treasurer, alcohol beverage division, for all shipments out of the state by North Dakota liquor wholesalers.
6. Shipments between liquor wholesalers within North Dakota will be accomplished by the transferring wholesaler furnishing the state treasurer a detailed invoice in duplicate.
7. All liquor destined for delivery to a federal enclave in North Dakota for domestic consumption and not transported through a licensed North Dakota wholesaler for delivery to such bona fide federal enclave in North Dakota shall have clearly identified on each individual item that such

shall be for consumption within the federal enclave exclusively. Such identification must be in a form and manner prescribed and approved by the state treasurer.

**History:** Amended effective January 1, 1986.

**General Authority:** NDCC 5-03-05

**Law Implemented:** NDCC 5-01-11, 5-02-01, 5-03-01, 5-03-04, 5-03-05, 5-03-06

**84-02-01-06. Beer suppliers reporting requirements.** Beer shall not be sent or brought into North Dakota except to licensed wholesalers. All persons sending beer into North Dakota shall send the state treasurer a copy of the invoice at the time of shipment and file a monthly North Dakota schedule C report with the state treasurer. The report shall be postmarked on or before the fifteenth day of the following month.

All beer destined for delivery to a federal enclave in North Dakota for domestic consumption and not transported through a licensed North Dakota wholesaler for delivery to such bona fide federal enclave in North Dakota shall have clearly identified on each individual item that such shall be for consumption within the federal enclave exclusively. Such identification must be in a form and manner prescribed and approved by the state treasurer.

**History:** Amended effective January 1, 1986.

**General Authority:** NDCC 5-03-05

**Law Implemented:** NDCC 5-01-11, 5-02-01, 5-03-01, 5-03-04, 5-03-05, 5-03-06

**84-02-01-07. Beer wholesalers reporting requirements.** The monthly North Dakota wholesalers report of beer purchased filed by beer wholesalers shall be accompanied by a check for the full amount of the tax due. The return must be postmarked on or before the fifteenth of each month.

Beer purchased from the brewery, or as allowed under section 84-02-01-04, in the preceding calendar month means all beer ordered by the wholesaler which appears on the monthly shipment report submitted by the brewery, or those sources allowed under section 84-02-01-04, to the state treasurer.

Beer in bulk containers means containers not less than one-fourth barrel.

**General Authority:** NDCC 5-03-05

**Law Implemented:** NDCC 5-03-04, 5-03-05

**84-02-01-08. Beer tax credit.** Beer wholesalers may be given credit of up to three dollars on taxes paid on beer which cannot be sold in North Dakota upon receipt of a statement from the licensee explaining the reason such beer is not saleable. Tax credits for larger amounts shall be allowed, upon satisfactory proof, after immediate notification to the state treasurer of an event that prohibits sale of such beer in North Dakota, unless time is not important in proving the facts required by the treasurer. Claims for tax credits on beer sold out of state shall be

accompanied by a copy of the return filed in that state. Invoices for sales to military reservations shall be sent to the treasurer with the monthly report.

Tax credits shall be allowed on bad accounts charged off for income tax purposes only after receipt of a copy of the tax return showing such and receipt of invoices showing the type and quantity of beverages purchased for which payment was not received.

**General Authority:** NDCC 5-03-05

**Law Implemented:** NDCC 5-03-04, 5-03-05

**84-02-01-09. Liquor tax information required.** Liquor wholesalers shall file a North Dakota monthly liquor report with the state treasurer. The return shall be accompanied by the full amount of tax due and by copies of all invoices of liquor sold the preceding calendar month. The invoices shall show the name and address of the purchaser, the date of sale, the kind of merchandise, the number of cases, and the number and size of containers per case. The date of sale shall be the date of delivery. The return must be postmarked on or before the fifteenth of the month.

**General Authority:** NDCC 5-03-05

**Law Implemented:** NDCC 5-03-04, 5-03-05

**84-02-01-10. Cash for beer.** No wholesaler may sell beer to any retailer except for cash. Cash shall include a check dated on or before the day of delivery. Any wholesaler receiving a check from a retailer which is returned by the bank due to insufficient funds shall immediately notify the retailer. If the check is not made good within forty-eight hours, the wholesaler shall notify the wholesaler's competitors and the state treasurer. No sales shall be made to such retailer until permitted by the state treasurer.

**General Authority:** NDCC 5-03-05

**Law Implemented:** NDCC 5-01-11, 5-03-05

**84-02-01-11. Commercial credit for liquor.** The normal commercial credit between liquor wholesalers and retailers is thirty days. Any wholesaler receiving a check from a retailer which is returned by the bank due to insufficient funds which was given for merchandise received shall immediately notify the retailer. If the check is not made good within forty-eight hours, the wholesaler shall notify the wholesaler's competitors and the state treasurer. Any wholesaler having an unpaid retail account for merchandise received which is in excess of thirty days shall notify the wholesaler's competitors and the state treasurer. No sale shall be made by any wholesaler to the account of a retailer who has or had possession of such merchandise until said delinquent account is paid in full and permitted by the state treasurer. A retail account may not be deemed delinquent for any alleged sale in

any instance where there exists a bona fide dispute between the licensee and the wholesaler as to the amount owing as a result of the alleged sale.

**History:** Amended effective February 1, 1990.

**General Authority:** NDCC 5-03-05

**Law Implemented:** NDCC 5-01-11, 5-03-01, 5-03-04, 5-03-05, 5-03-06